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3 **BEFORE THE ARIZONA MEDICAL BOARD**

4 IN THE MATTER OF :

No. 11A-6361-MDX

5 ARTHUR J. O'CONNOR, M.D.,

6 Holder of License No. 6361  
7 For the Practice as an Allopathic Physician  
8 in the State of Arizona.

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER**

**(Revocation)**

9 Respondent.

10  
11 On December 14, 2011, this matter came before the Arizona Medical Board  
12 ("Board") for consideration of the Administrative Law Judge (ALJ) Brian Brendan Tully's  
13 proposed Findings of Fact, Conclusions of Law and Recommended Order. Arthur J.  
14 O'Connor, M.D. ("Respondent") appeared before the Board with legal Counsel Daniel  
15 P. Jantsch, Esq.; Michael W. Sillyman, represented the State. Christopher Munns with  
16 the Solicitor General's Section of the Attorney General's Office, was present and  
17 available to provide independent legal advice to the Board.

18 The Board, having considered the ALJ's decision and the entire record in this  
19 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

20  
21 **FINDINGS OF FACT**

- 22 1. The Arizona Medical Board ("Board") is the duly constituted authority for  
23 licensing and regulating the practice of allopathic medicine in the State of  
24 Arizona.
- 25 2. Arthur J. O'Connor, M.D. ("Respondent") is the holder of License No. 6361 for  
26 practice as an allopathic physician in Arizona.
- 27 3. The Board initiated Case No. MD-10-0988A after receiving allegations that  
28 Respondent had sexually abused his patient T.M.
- 29 4. Case No. MD-10-1392A was initiated by the Board after the Board received an  
30 allegation of sexual abuse by Respondent of his patient J.P.-P.
5. Patient M.T. was subsequently added to Case No. MD-10-1392A on her  
complaint of inappropriate touching by Respondent.

- 1 6. After Respondent's failure to disclose two incidents of alleged sexual abuse of  
2 patients M.T. and C.W., the Board initiated Case No. MD-11-0006A.

3 **Case No. MD-10-0988A- Patient T.M.**

- 4 7. The Board initiated Case No. MD-10-0988A following receipt of information  
5 regarding a patient complaint against Respondent from Lauro Amezcua-Patino,  
6 M.D., a psychiatrist who treated Respondent, and a complaint filed by Patient  
7 T.M.
- 8 8. Patient T.M. first met Respondent when he was assigned to be her surgeon in  
9 May 2005.
- 10 9. Although Patient T.M. did not undergo surgery in 2005, when she later returned  
11 to the hospital in 2009, she recalled Respondent and requested that he become  
12 part of her care team.
- 13 10. On one occasion in 2009 during a pre-operative visit to her hospital room,  
14 Respondent lifted up Patient T.M.'s hospital gown when she was not wearing  
15 any underpants. She was very uncomfortable with the situation and put  
16 underpants on.
- 17 11. During an office visit in December 2009, Respondent performed a pelvic  
18 examination of Patient T.M., indicating that the reason for the pelvic exam was  
19 her lack of a sex drive. Respondent was not treating Patient T.M. for lack of sex  
20 drive.
- 21 12. Patient T.M.'s lack of sex drive was a common topic with Respondent during her  
22 office visits with him. Respondent would often try to stimulate her sexually by  
23 using his bare hand to manipulate her clitoris. He would also frequently touch her  
24 breasts including her nipples.
- 25 13. Patient T.M. visited Respondent's office in April 2010, for what she thought was  
26 an infection where her feeding tube was inserted.
- 27 14. During the April 2010 examination, Patient T.M. complained of phantom pain in  
28 her arms where peripherally inserted central catheter lines had been placed.  
29 Respondent rubbed Patient T.M.'s arm against his pelvic area and his erection.
- 30 15. During the April 2010, examination, Respondent again questioned Patient T.M.  
about her sex life with her husband, undid her belt, opened up her jeans and put

1 his hand down her pants to determine if she had any sensation. Respondent  
2 then put his hand down Patient T.M.'s shirt and bra and touched both her  
3 breasts. Respondent asked Patient T.M. how often she serviced her husband in  
4 a week's time. Respondent asked if she swallowed during oral sex and if she  
5 liked the taste. Respondent ordered a testosterone test for Patient T.M. and  
6 then, according to Patient T.M.'s testimony, "for some reason [Respondent] used  
7 the pronoun 'we' would like you to masturbate."

8 16. In a complaint dated April 22, 2010, and delivered to the Board on July 22, 2010,  
9 Patient T.M. outlined Respondent's sexual abuse of her.

10 17. Respondent's examination of Patient T.M.'s breasts and vagina and his  
11 questions regarding her sexual relations were unrelated and unnecessary to the  
12 examination of her feeding tube, and Respondent was not treating Patient T.M.  
13 for any sexual malfunction.

14 ***Case No. MD-10-1392A – Patients J.P.-P. and M.T.***

15 **Patient J.P.P.**

16 18. The Board initiated Case No. MD-10-1392A after receiving notification from  
17 Scottsdale Healthcare alleging that Respondent inappropriately touched Patient  
18 J.P.-P. on four occasions during an October 2010 hospitalization.

19 19. J.P.-P. is a registered nurse who has worked as a nurse for over 18 years.

20 20. Respondent was the surgeon assigned to J.P.-P. in connection with surgery  
21 performed on October 20, 2010.

22 21. Patient J.P.-P alleged that following her surgery, Respondent came to her  
23 hospital room late at night. She alleged that she placed her hand out to shake  
24 Respondent's hand and he placed both of his hands, with her hand in the  
25 middle, down her gown and between her breasts, saying "that's where they  
26 belong." Patient J.P.-P alleged that she broke Respondent's grip, threw his hand  
27 out of her gown, pulled her covers up to her neck and said, "what in the hell is  
28 the matter with you?...Don't ever touch me like that again."

29 22. Patient J.P.-P alleges that a second incident involving Respondent occurred the  
30 next evening when Respondent entered her hospital room, leaned across her on  
the bed and placed his left hand down through the covers and down her gown,

1 grabbing her left breast and flipping it out of the top of her gown. Patient J.P.-P  
2 claims that she immediately brought the covers back up and asked Respondent  
3 "what in the hell are you doing?" Patient J.P.-P further claims that she ordered  
4 Respondent out of her room and told him never to do that to her again.

5 23. Patient J.P.-P alleges a third incident with Respondent. She claims Respondent  
6 walked into her hospital room toward the foot of her bed. She felt him spread her  
7 thighs and felt his hand on her genitals. She asked Respondent "what the hell  
8 are you doing down there?" Respondent replied that he was checking her  
9 catheter. As a nurse, Patient J.P.-P knew that checking catheters was a nurse's  
10 function, not a physician's function. She allegedly told him to get out of her room  
11 and to never touch her there again.

12 24. A fourth incident involving Respondent allegedly occurred the following  
13 consecutive evening and involved Respondent's attempted removal of Patient  
14 J.P.-P's nasogastric tube ("NG tube") causing her to choke.

15 25. Patient J.P.-P was interviewed by the Scottsdale Police on October 23, 2010,  
16 and specifically stated there were three successive nights of alleged sexual  
17 abuse, beginning on the first day following surgery, and always between 11:00  
18 p.m. and midnight.

19 26. In a telephonic conference with Scottsdale Police Officer Milne on November 5,  
20 2010, Patient J.P.-P. advised the officer that she wanted to pursue prosecution  
21 and that she now had visions of Respondent climbing on her bed and  
22 "straddling" her as well as "raping" her.

23 27. On November 15, 2010, Patient J.P.-P. was interviewed by Board staff and  
24 advised them that post-operatively Respondent sexually abused her on five  
25 successive nights, always from 11:00 p.m. to midnight.

26 28. Patient J.P.-P. testified at hearing that on post-operative night number four,  
27 Respondent came to her room asking what he could do to "be her best friend."  
28 She responded by stating he could write an order to remove her NG tube, and  
29 then Respondent attempted to pull out the NG tube but left it in a precarious  
30 position affecting her gag reflex and possibly exposing her to aspiration of  
stomach contents and pneumonitis.

- 1 29. Patient J.P.-P. testified at hearing that she was the one who ultimately removed  
2 the NG tube and that she protected herself against aspiration.
- 3 30. At hearing, Patient J.P.-P. was shown a document from her hospital chart that  
4 reflected that the NG tube had been removed two days previous, such that her  
5 relating of events on the fourth post-operative night could not have occurred.
- 6 31. In response to the document, Patient J.P.-P. testified that her attorney had  
7 dropped her like a "hot cake" and told her that the hospital record had been  
8 "scrubbed clean" or materially altered.
- 9 32. Patient J.P.-P testified vigorously and assertively that the NG tube had not been  
10 removed on post-operative day number two as reflected by the hospital chart;  
11 rather, she stated that the legal department or risk management department at  
12 the hospital had altered the medical record.
- 13 33. Patient J.P.-P also testified that the hospital chart had been altered to delete  
14 information regarding two falls she sustained in the hospital prior to surgery.
- 15 34. Patient J.P.-P's interview with Board staff as well as her testimony at hearing  
16 included her assertion that during the day, Respondent was a normal,  
17 professional physician; however, when Respondent appeared in her room at  
18 night between 11:00 p.m. and midnight and abused her, he acted with a different  
19 personality, with eyes glazed over and in a very stalking fashion. He was like a  
20 Jekyll and Hyde according to Patient J.P.-P.'s assertions and testimony.
- 21 35. Except for Patient J.P.-P.'s testimony, there is no other evidence establishing  
22 that Respondent was at the hospital and in her hospital room as Patient J.P.-P.  
23 claims.
- 24 36. Patient J.P.-P. was maintained on a powerful narcotic pain medication, Dilaudid,  
25 during her post-operative course. Dilaudid is well known for creating hallucinatory  
26 and delusional visions in such patients.
- 27 37. Dr. Gilles, the general surgeon who accepted transfer of care of Patient J.P.-P.  
28 when Respondent was asked to withdraw following the lodging of her complaint  
29 with the hospital, testified that the effects of Dilaudid and other narcotic  
30 medications are well known to cause delusions and hallucinations. Dr. Gilles

1 related an anecdote told to him recently by a patient on Dilaudid who  
2 experienced hallucination that people were having sex in the hallway.

- 3 38. Patient J.P.-P.'s testimony does not rise to the level of credibility to sustain her  
4 allegations against Respondent.

5 **Patient M.T.**

- 6 39. Respondent removed Patient M.T.'s gallbladder in January 2003.

- 7 40. Following the gallbladder surgery, Respondent examined Patient M.T. in his  
8 office in regard to the surgical scars. He asked her to lift her blouse and pull her  
9 pants down to where the top of her pubic area was exposed 4 to 6 inches below  
10 where her surgical scars were located. At the time, Patient M.T. was a little  
11 uncomfortable, but she complied with Respondent's request, although she  
12 decided never to see Respondent again.

- 13 41. In October 2003, Patient M.T. returned to the hospital after experiencing the  
14 same pain she had experienced prior to her gallbladder surgery. Patient M.T.  
15 believed that Respondent had been asked to consult on her medical case.  
16 Respondent entered Patient M.T.'s room and asked if she had had any other  
17 procedures since he last saw her. Patient M.T.'s husband stated that Patient  
18 M.T. had breast augmentations. Respondent asked to see Patient M.T.'s  
19 gallbladder scars, and she lifted up her shirt to just under her breasts.  
20 Respondent then placed his hands on her breasts and squeezed her breasts  
21 and pinched her nipples and said "it looks like he did a good job."

- 22 42. No breast examination was noted in Patient M.T.'s medical record and such an  
23 examination was unrelated to the patient's medical issues.

- 24 43. Patient M.T. reported the incident to the nurse that Respondent had touched her  
25 improperly and unprofessionally and that she felt violated and did not want him  
26 around her ever again.

- 27 44. Patient M.T. also filed a police report regarding the incident on October 17, 2003.

28 **Case No. MD-11-0006A**

- 29 45. The Board initiated Case No. MD-11-0006A as a result of an interview of  
30 Respondent by Board staff regarding the investigations in MD-10-0988A  
concerning Patient T.M. and in MD-10-1392A concerning Patient J.P.-P.

- 1 46. During an interview of Respondent by Board staff on November 17, 2010,  
2 Respondent was asked if he had any other patient complaints against him for  
3 inappropriate touching other than D.H.,<sup>1</sup> T.M., and J.P.-P. Respondent falsely  
4 replied no.
- 5 47. In a 2007 Psycho Sexual Assessment, which was ordered by and forwarded to  
6 the Board, Respondent falsely reported to Dr. Amezcua-Patino that he had never  
7 been previously accused of inappropriate sexual behavior.
- 8 48. In a letter written on behalf of Respondent on November 29, 2010, to Board  
9 staff, Respondent's attorney, Daniel Jantsch, Esq., informed the Board that there  
10 had been only three complaints against Respondent for inappropriate touching  
11 and conduct as of the date of his letter. Mr. Jantsch identified the complaints  
12 made by patients D.H., T.M., and J.P.-P. Respondent reviewed the letter for  
13 accuracy before it was sent to Board staff.
- 14 49. Mr. Jantsch's letter falsely informed Board staff that only three complaints had  
15 been made against Respondent through November 29, 2010, when, in fact, five  
16 complaints were known by Respondent to have been made against him.
- 17 50. At the time Mr. Jantsch's letter was sent to Board staff, two additional complaints  
18 of inappropriate touching by Respondent had been made in 2003 and 2005,  
19 respectively, by his patients M.T. and C.W.
- 20 51. The Board ordered Respondent to undergo a Professionals Assessment  
21 Program conducted by the Sante Center for Healing ("Sante") in December  
22 2010.
- 23 52. During that assessment conducted by Sante, Respondent, when asked, falsely  
24 disclosed that only three complaints had been made against him for  
25 inappropriate touching. Respondent knew at the time he responded that Sante  
26 would send its report to the Board.

27  
28 <sup>1</sup> On or about March 20, 2007 Patient D.H. contacted the Tempe Police Department alleging that she had  
29 been sexually abused by Respondent on March 20, 2007, during an examination. On or about March 21,  
30 2007, Patient D.H. filed a complaint against Respondent with the Board alleging inappropriate touching by  
Respondent during examinations on January 4, 2007, and on March 20, 2007. No evidence was  
presented whether Respondent was criminally prosecuted or disciplined by the Board as a result of this  
complaint.

1 53. Respondent wrote a letter to Board staff dated January 5, 2011, in which he  
2 stated that he "had no recollection of the two specific cases" involving Patients  
3 T.M. and C.W. until he read police reports forwarded to him by the Board.  
4 Respondent also stated that he "was not aware of any complaint [concerning  
5 Patient C.W.] until receiving the police report" provided by the Board, and did not  
6 remember Patient M.T. had filed a complaint, but recalled Patient M.T. having a  
7 positive outcome from his care. These statements by Respondent were false  
8 because at the time of the complaint by Patient M.T. in 2003 and by Patient  
9 C.W. in 2005, hospital investigations were undertaken concerning allegations of  
10 inappropriate sexual touching, to which Respondent answered in detail.

#### 11 **CONCLUSIONS OF LAW**

- 12 1. The Board has jurisdiction over Respondent and the subject matter in this case.
- 13 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board has  
14 the burden of proof in this matter. The standard of proof is by a preponderance  
15 of the evidence. A.A.C. R2-19-119(A).
- 16 3. The conduct and circumstances described in the above Findings of Fact  
17 constitute unprofessional conduct by Respondent, pursuant to A.R.S. § 32-  
18 1401.27(z) (ii) and (iii).
- 19 4. The conduct and circumstances described in the above Findings of Fact  
20 constitute unprofessional conduct by Respondent, pursuant to A.R.S. § 32-  
21 1401.27(jj).

#### 22 **ORDER**

23  
24 Respondent's License No. 6361 shall be revoked on the effective date of the  
25 Order entered in this matter.

26 Pursuant to A.R.S. § 32-1451(M), Respondent is charged the costs of the formal  
27 hearing. Respondent shall pay those costs to the Board no later than 30 days from the  
28 date of invoicing from the Board or its designee, unless such deadline date is extended  
29 by the Board or its designee.  
30



1  
2 **RIGHT TO PETITION FOR REHEARING OR REVIEW**  
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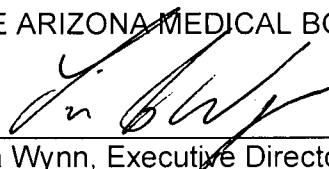
4 Respondent is hereby notified that he has the right to petition for a rehearing or  
5 review. The petition for rehearing or review must be filed with the Board's Executive  
6 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The  
7 petition for rehearing or review must set forth legally sufficient reasons for granting a  
8 rehearing or review. A.A.C. R4-16-103. Service of this Order is effective five (5) days  
9 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not  
10 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to  
11 Respondent.

12 Respondent is further notified that the filing of a motion for rehearing or review is  
13 required to preserve any rights of appeal to the Superior Court.

14 Dated this 14th day, December 2011.



21 THE ARIZONA MEDICAL BOARD

22   
Lisa Wynn, Executive Director

23  
24 ORIGINAL of the foregoing filed this  
25 15th day of December, 2011 with:

26 Arizona Medical Board  
27 9545 East Doubletree Ranch Road  
28 Scottsdale, Arizona 85258

29 COPY of the foregoing filed  
30 this 15th day of December 2011, with:

Cliff J. Vanell, Director  
Office of Administrative Hearing  
1400 W. Washington, Ste. 101  
Phoenix, AZ 85007

1 Executed copy of the Foregoing  
2 mailed by U.S. Mail this  
3 15th day of December 2011, to:

4 Arthur J. O'Connor, M.D.  
5 Address of Record

6 Daniel J. Jantsch, Esq.  
7 Olson Jantsch & Bakker, P.A.  
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9 Phoenix, AZ 85020

10 *Attorneys for Respondent*

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